

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 894 131/C	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/CH00/00001	International filing date (day/month/year) 04 January 2000 (04.01.00)	Priority date (day/month/year) 01 February 1999 (01.02.99)
International Patent Classification (IPC) or national classification and IPC A23L 1/48, 1/06		
Applicant GSCHWIND, René		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>6</u> sheets.</p>	
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input checked="" type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>	

Date of submission of the demand 12 August 2000 (12.08.00)	Date of completion of this report 06 February 2001 (06.02.2001)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/CH00/00001

I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

- ☐ the international application as originally filed.
- ☒ the description, pages 2-11, as originally filed,
 pages _____, filed with the demand,
 pages 1,1a, filed with the letter of 04 January 2001 (04.01.2001),
 pages _____, filed with the letter of _____.
- ☒ the claims, Nos. _____, as originally filed,
 Nos. _____, as amended under Article 19,
 Nos. _____, filed with the demand,
 Nos. 1-14, filed with the letter of 04 January 2001 (04.01.2001),
 Nos. _____, filed with the letter of _____.
- ☐ the drawings, sheets/fig _____, as originally filed,
 sheets/fig _____, filed with the demand,
 sheets/fig _____, filed with the letter of _____,
 sheets/fig _____, filed with the letter of _____.

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/CH 00/00001

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1 - 14	YES
	Claims		NO
Inventive step (IS)	Claims	1 - 14	YES
	Claims		NO
Industrial applicability (IA)	Claims	1 - 14	YES
	Claims		NO

2. Citations and explanations

This report makes reference to the following documents, which are cited in the search report:

D1 = DE-A-197 36 429

D2 = JP-A-60 120950 (WPI and PAJ abstracts)

D3 = EP-A-0 496 426

D4 = US-A-4 197 325

D5 = JP-A-59 045387

D6 = FSTA Abstract AN 85-3-04-10058

Novelty

A bread spread containing cola flavorant and fruit material was not disclosed in the search report documents (Claim 1). Consequently, methods for producing it are also novel (PCT Article 33(2)).

Since the remaining claims define preferred embodiments of the previously mentioned claims, they also comply with the requirements of novelty (PCT Article 33(2)).

.../...

(Continuation of V.2)

Inventive step

D1 is considered to be the closest prior art, because that document relates to bread spreads. However, the teaching to combine the cola flavorant used and fruit material and thereby produce an alternative to existing bread spreads, cannot be derived therefrom. The remaining documents relate to gels per se which need not necessarily be suitable in taste and consistency as a bread spread. Fruits or fruit juice and cola are mentioned as possible components, but a combination of these components and the use of the resulting material as a bread spread cannot be regarded as obvious. Analogous considerations apply to the method claims and the dependent claims. Consequently, the claimed subject matter is considered to be inventive in relation to the prior art (PCT Article 33(3)).

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/CH 00/00001

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

As a result of the insertion of page 1a, part of the sentence which ends on page 2 is duplicated.